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10/675,673	09/30/2003	Dustin C. Kirkland	AUS920030796US1	6742

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EXAMINER
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ROSWELL, MICHAEL

ART UNIT	PAPER NUMBER
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2173

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09/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/675,673

Applicant(s)

KIRKLAND, DUSTIN C.

Examiner

Michael Roswell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9-11,16,17 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-11,16,17 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 9-11, 16-17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford (US Patent 6,781,608) and Hackbarth et al (US Patent 7,107,312), hereinafter Hackbarth.

Regarding claims 1 and 10, Crawford teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, taught as the sending of an instant message that includes a picture (buddy icon) of the sender, at col. 14, lines 54-60. Crawford further teaches displaying the picture image of the sender with the instant message on a display in the data processing system if the picture of the sender is associated with the instant message, as can be seen at col. 13, lines 12-20.

However, Crawford fails to explicitly teach the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures. Crawford further fails to explicitly teach the picture image of the sender being stored in the preexisting database on the remote data

processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging.

Hackbarth teaches a system for communication between a plurality of clients, similar to that of Crawford. Furthermore, Hackbarth teaches the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40. Furthermore, Hackbarth teaches instant message style communication at col. 13, lines 25-28.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Crawford and Hackbarth before him at the time the invention was made to modify the instant messaging system of Crawford to include the ConnectIcon image storage and retrieval of Hackbarth. One would have been motivated to make such a combination for the

obvious advantage of easily identifying a message sender or conversation through a user-specific icon, and the flexibility of storing an icon at a plurality of locations.

Regarding claims 2 and 11, Crawford teaches the picture image of the sender and the instant message being displayed in a single window (as can be seen in Fig. 11, at col. 17, lines 32-38), and Hackbarth teaches the picture image of the sender being a "mug shot" (col. 10, lines 63-67).

Regarding claim 3, Crawford teaches the user selected preference being local, and the picture image of the sender not being received with the instant message but instead being previously received with another message previously sent to the data processing system from the sender and stored in the local cache on the data processing system, taught as the user preference selection of Fig. 8, col. 17, lines 7-13, and the persistent buddy icon display of col. 17, lines 32-38.

Regarding claim 9, Crawford teaches a bus system, communications unit connected to the bus system, memory connected to the bus system, wherein the memory includes a set of instructions, and a processing unit connected to the bus system, wherein the processing unit executes the set of instructions (see col. 2, lines 16-31, "personal computers") to, responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, taught as the sending of an instant message that includes a picture (buddy icon) of the sender, at col. 14, lines 54-60. Crawford further teaches displaying the picture image of the sender with the instant message on a display in the

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data processing system if the picture of the sender is associated with the instant message, as can be seen at col. 13, lines 12-20.

However, Crawford fails to explicitly teach the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures. Crawford further fails to explicitly teach the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging.

Hackbarth teaches a system for communication between a plurality of clients, similar to that of Crawford. Furthermore, Hackbarth teaches the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing

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system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40. Furthermore, Hackbarth teaches instant message style communication at col. 13, lines 25-28.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Crawford and Hackbarth before him at the time the invention was made to modify the instant messaging system of Crawford to include the ConnectIcon image storage and retrieval of Hackbarth. One would have been motivated to make such a combination for the obvious advantage of easily identifying a message sender or conversation through a user-specific icon, and the flexibility of storing an icon at a plurality of locations.

Regarding claims 16 and 22, Crawford teaches first instructions responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, taught as the sending of an instant message that includes a picture (buddy icon) of the sender, at col. 14, lines 54-60. Crawford further teaches second instructions for displaying the picture image of the sender with the instant message on a display in the data processing system if the picture of the sender is associated with the instant message, as can be seen at col. 13, lines 12-20.

However, Crawford fails to explicitly teach the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures. Crawford further fails to explicitly teach

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the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging.

Hackbarth teaches a system for communication between a plurality of clients, similar to that of Crawford. Furthermore, Hackbarth teaches the picture image of the sender being located in at least one of a local cache on the data processing system and a preexisting database of pictures on a remote data processing system as determined by a user selected preference, and wherein the determining step is automatically performed by an instant messaging process of a receiver of the instant message that determines whether the picture image of the sender is in the local cache or the preexisting database of pictures, taught as the "ConnectIcon View" of Hackbarth, which allows for a group of users being invited to communicate together to view dynamic image representations of their current status relative to a multitude of communication mechanisms (col. 6, lines 18-40). The ConnectIcon View displays personal user images (col. 16, lines 31-44), and stores the user images and information in a remote database (col. 10, lines 63-67 and col. 5, lines 6-34). Hackbarth teaches the picture image of the sender being stored in the preexisting database on the remote data processing system, and the preexisting database being used to provide pictures of users for a different user identification purpose other than instant messaging, as Hackbarth allows for the use of several communications mechanisms other than instant messaging at col. 6, lines 18-40. Furthermore, Hackbarth teaches instant message style communication at col. 13, lines 25-28.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Crawford and Hackbarth before him at the time the invention was made to modify the instant messaging system of Crawford to include the ConnectIcon image storage and retrieval of Hackbarth. One would have been motivated to make such a combination for the



obvious advantage of easily identifying a message sender or conversation through a user-specific icon, and the flexibility of storing an icon at a plurality of locations. Crawford teaches the use of a generic icon database maintained separately from the preexisting database, as can be seen from the icon selection screens of Fig. 8 and 9.

Regarding claim 17, Crawford teaches the picture image of the sender and the instant message being displayed in a single window (as can be seen in Fig. 11, at col. 17, lines 32-38), and Hackbarth teaches the picture image of the sender being a "mug shot" (col. 10, lines 63-67).

Claims 5-7 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford and Rosenblatt et al (US Publication 2002/0007276), hereinafter Rosenblatt.

Regarding claim 5, Crawford teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, taught as the sending of an instant message that includes a picture (buddy icon) of the sender, at col. 14, lines 54-60. Crawford further teaches displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message, wherein the picture image of the sender is embedded by an instant messaging process of the sender into the instant message prior to sending the instant message to the data processing system, as can be seen at col. 13, lines 12-20.

Crawford fails to explicitly teach the selected picture being automatically selected by the instant messaging process based upon particular content in the instant message.

Rosenblatt teaches the use of an instant messaging system similar to that of Crawford. Furthermore, Rosenblatt teaches a selected picture being automatically selected by the instant messaging process based upon particular content in the instant message, as the virtual representation of the user is capable of changing its displayed "emotion" based on textual input, at ¶ 0015.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Crawford and Rosenblatt before him at the time the invention was made to modify the instant messaging system of Crawford to include the emotion-specific images of Rosenblatt. One would have been motivated to make such a combination for the advantage of providing realistic visual imagery and cueing to enhance user experience. See Rosenblatt, ¶ 0003-0006.

Regarding claim 23, Crawford teaches responsive to receiving an instant message, determining whether a picture image of a sender of the instant message is associated with the instant message, taught as the sending of an instant message that includes a picture (buddy icon) of the sender, at col. 14, lines 54-60. Crawford further teaches displaying the picture image of the sender with the instant message on a display in the data processing system if the picture image of the sender is associated with the instant message, wherein the picture image of the sender is embedded by an instant messaging process of the sender into the instant message prior to sending the instant message to the data processing system, as can be seen at col. 13, lines 12-20.

Crawford fails to explicitly teach the selected picture being automatically selected by the instant messaging process based upon particular content in the instant message.

Rosenblatt teaches the use of an instant messaging system similar to that of Crawford. Furthermore, Rosenblatt teaches a selected picture being automatically selected by the instant

messaging from a preexisting database of different pictures of the sender and being automatically selected without user intervention by the selection process based upon particular content in the instant message, as the virtual representation of the user is capable of changing its displayed "emotion" based on textual input, at ¶ 0015.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Crawford and Rosenblatt before him at the time the invention was made to modify the instant messaging system of Crawford to include the emotion-specific images of Rosenblatt. One would have been motivated to make such a combination for the advantage of providing realistic visual imagery and cueing to enhance user experience. See Rosenblatt, ¶ 0003-0006. Crawford further teaches that the picture may be a "mug shot", at col. 13, lines 12-20, as the buddy icon may be a picture.

Regarding claims 6 and 24, Rosenblatt teaches the content input being an emoticon, at ¶ 0019.

Regarding claim 7, Crawford teaches receiving the picture image of the sender with the instant message, as can be seen in Fig. 11.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3, 5-7, 9-11, 16-17 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

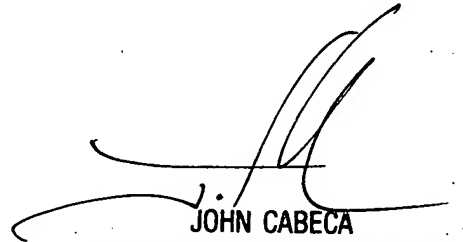
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Roswell  
9/12/2007



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